

AFTER ACTION REPORT

REGULAR CITY COMMISSION MEETING MONDAY, AUGUST 16, 2010 6:30 P.M.

**DELTONA COMMISSION CHAMBERS
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA**



AGENDA

1. CALL TO ORDER – 6:35 p.m.
2. ROLL CALL - CITY CLERK
3. SILENT INVOCATION AND PLEDGE TO THE FLAG:
4. APPROVAL OF MINUTES & AGENDA:

A. Minutes:

Regular City Commission Meeting – August 2, 2010.

Commission voted unanimously to adopt the minutes of the Regular City Commission Meeting of August 2, 2010 as presented.

B. Additions or Deletions to Agenda.

After discussion, the Commission voted 5 to 2 (Commissioner Denizac and Commissioner Zischkau voted against the motion) to add Add-On Item 9-B to the agenda.

5. PRESENTATIONS/AWARDS/REPORTS:

- A. Presentation by Joe Johnson, President/CEO of Florida Hospital Fish Memorial.**
- B. Proclamation – Francis Olszewski - Neighborhood Watch #49.**

**6. PUBLIC FORUM – Citizen comments for items not on the agenda.
(4 minute maximum length)**

CONSENT All items marked with an * will be considered by one motion unless removed
AGENDA: from the Consent Agenda by a member of the City Commission. If an item is removed for clarification only, it will be discussed immediately following action on the Consent Agenda. If an item is removed for further discussion, it will be discussed under New Business immediately following the last listed item.

7. CONSENT AGENDA:

The Commission voted unanimously to approve Consent Items 7-C. Items 7-A and 7-B removed from Consent by Commissioner Denizac.

A. Request for approval of Award of Bid #10024, Wes Crile Park Renovations.

Staff requested bids from licensed General Contractors to perform remodeling work at Wes Crile Park located at 1537 Norbert Terrace in Deltona, Florida. The work will include remodeling the interior and exterior restrooms, conference/meeting room and lobby. This is a CDBG funded project.

Ten bids were received as follows:

- *Pat Lynch Construction, LLC \$52,481*
- *The CBC Group, LLC \$52,779*
- *Full Sail Builders, Inc. \$54,012*
- *A.G. Pifer Construction Co., Inc. \$69,766.39*
- *Misiano Construction & Remodeling, Inc. \$70,000*
- *Southern Building Services, Inc. \$71,819*
- *AAA Construction Managers, Inc. \$75,169*
- *McNeal & White Contractors, Inc. \$87,740*
- *The Watauga Company \$89,400*
- *DRS Enterprises, LLC \$118,000*

Pat Lynch Construction, LLC. was the lowest, responsive bidder at \$52,481.00. Their status with DBPR and their licenses and references were checked and everything checked out fine. The work is to be completed within 60 Days from issuance of a Notice to Proceed.

The Florida Department of State Division of Corporations (Sunbiz.org) has listed two (2) member/member detail owners; John Mills and Patrick M. Lynch. These are the only principal owners of Patrick Lynch Construction, LLC.

After discussion, the Commission voted 6 to 1 (Commissioner Denizac voted against the motion) to make award of Bid #10024 for Renovations at Wes Crile Park to Pat Lynch Construction, LLC at a total cost of \$52,481.

B. Request for approval to purchase replacement Cardiac Monitors and a budget amendment to record receipt of grant funds and to adjust Capital Budget for project substitution with the CAD system replacement project.

In February of this year the Fire Department applied for a matching Emergency Medical Services (EMS) grant from the State of Florida, Department of Health, Bureau of EMS. This grant was to replace and upgrade our aging cache of Medtronic Physio-Control LifePak 12 cardiac monitors. The monitors range in age from 4 - 9 years and experience frequent failures requiring repair. Although the Department maintains a maintenance agreement with Physio-Control; failure of these units can be catastrophic if they occur during a patient evaluation or treatment event.

On June 18, 2010, the Department of Health, Bureau of EMS awarded the City \$112,795.00 (75%) towards the replacement of five units. Due to the tremendous amount of requests for funding, the project was awarded at 50% of the total number of units requested in an effort to fund more projects in the State. The amount below reflects the total cost to replace all 10 cardiac monitors that the Department owns. Seven of these units are frontline monitors with a reserve cache to provide an immediate replacement for equipment failure and in the event we deploy additional units during special events, state deployments or times of declared emergencies.

Originally, this project was requested for FY 2010-11 and is currently in the proposed budget presented to the Commission on July 12, 2010. In order to facilitate the replacement of these units, the Fire Department is requesting to reassign project funding from FY 2010-11 to FY 2009-10.

After discussion, the Commission voted unanimously to record receipt of \$112,795 in EMS (State) Grant Funds for purchase of replacement cardiac monitors at a total cost of \$291,785.70 for ten (10) monitors and to authorize the associated budget amendment to recognize receipt of the grant funds and an adjustment to FY 09/10 Capital Budget to include the Cardiac Monitor project in the FY 09/10 Capital Budget, and to move the CAD System Replacement Project to the FY 10/11 Capital Budget.

***C. Request for approval of Facility Use Agreement for The Lighthouse Pentecostal Church of Jesus, Inc.**

The Lighthouse Pentecostal Church of Jesus, Inc. has had a facility use permit to conduct religious services and are considered a Deltona-based, not-for-profit organization.

The Lighthouse Pentecostal Church of Jesus, Inc., has previously utilized the Conference Room at the Harris Saxon Community Center located at 2329 California Street, Deltona on the second and fourth Sunday Evenings for 6:00-8:00 PM. For this agreement purposes they will be responsible to pay a Category II Facility Use Fee rate of \$ 15.00 per hour, less 20 % equating to \$ 12.00.

The Lighthouse Pentecostal Church of Jesus, Inc has met the criteria for a Long Term Facility Use Agreement with the City.

Staff recommends a one (1) year Facility Use Agreement with an option to renew for an additional one (1) year period and may be renewed yearly up to a total of three (3) additional years, upon written acceptance by the City prior to each successive renewal.

Approved by Consent Agenda – to approve the Long Term Facility Use Agreement with the Lighthouse Pentecostal Church of Jesus, Inc. for use of the Conference Room at the Harris Saxon Community Center for a period of one (1) year, effective August 16, 2010 with an option to renew for an additional one (1) year and may be renewed yearly up to a total of three (3) one year renewals upon written acceptance by the City prior to each successive renewal.

8. ORDINANCES AND -PUBLIC HEARINGS:

A. Public Hearing – Ordinance No. 08-2010, Amending Section 98-35 of the Code of Ordinances, pertaining to a tree bank that provides for payment into a tree fund under certain circumstances, for second and final reading.

For some time the City has had a tree replacement fund established as part of its fee schedule. The intent of the tree replacement fund is to provide a monetary method of mitigating the loss of trees in lieu of on-site tree preservation and/or the planting of new trees. There has always been anticipation that mitigation funds accumulated through the fee schedule tree replacement fund would be utilized to replace lost trees with new trees somewhere within the City.

Currently, the City tree fund contains \$519,872.24. Research extending back to 2006, indicates that none of the money collected or interest earned has been expended, with the recent exception of funding related to the replacement of the juniper plantings with sod along the Howland Blvd. median (approx. \$15,000) which is scheduled to be paid from this Fund.

While the City has been collecting and holding money associated with the tree

replacement fund, the concept of a tree replacement fund, including how the fund money should be expended, is not well developed within Article II (Tree Permits) of City Code Section 98, Natural Resources Protection. Therefore, to formalize a nexus between the fee schedule tree replacement fund and Section 98, Article II, the City is proposing to amend Section 98-35 (Tree Bank).

The proposed language modifications/additions illustrate an option to pay a fee for not meeting on site tree replacement requirements. In addition, a methodology for determining how to calculate the fee is included. Finally, the language indicates that the collected funds can be used for the "planting and maintenance" of trees along rights-of-ways and on city owned property. Also the proposal includes ability to plant trees on private land along rights-of-ways with the owner's permission.

On July 21, 2010, the City Planning and Zoning Board heard the proposed changes to Section 98. The City Planning and Zoning Board recommended that the City Commission adopt the Section 98 amendments with a suggestion that further language be added to facilitate an option to plant trees on private land along rights of way with the permission of the owner.

After Discussion, the Commission voted unanimously to adopt Ordinance No. 08-2010, an Ordinance of the City of Deltona, amending Section 98-35 of the Code of Ordinances, pertaining to a tree bank and providing for payment into a tree fund under certain circumstances at second and final reading.

B. Public Hearing – Resolution No. 2010-17, Granting a Conditional Use for the property located at 1649 Providence Blvd. for use as a Farmer's Market under certain conditions.

In June of 2010, the City of Deltona modified provisions of the City's Code of Ordinances to facilitate a public market (a.k.a. farmer's market) through a Conditional Use Permit process within various zoning districts, including an R-1 classification. The subject site is located within an R-1 zoning district and the Conditional Use application requires review by the Planning and Zoning Board and approval by the City Commission.

The Deltona Farmer's Market use at 1694 Providence Blvd. is proposed to be co-located on a ±3.60 acre site that includes the ±8,000 square foot Deltona United Church of Christ; a ±4,462 square foot ancillary building that is used for a daycare and Church offices; a paved parking lot with 58 spaces; and an undeveloped grass area located in the northern section of the site. The grass area is currently used for overflow parking during peak worship activities.

Adjacent land uses include a liquor store to the north, residential to the east and south, and neighborhood convenience commercial to the west of the subject site. The subject site is directly adjacent to a commercial area that is associated with the Providence Blvd. corridor. The eastern section of the property along

Gainesville Drive is heavily vegetated that serves as a buffer between the uses on the site and the residential areas located east of Gainesville Drive.

As proposed, the Farmer's Market will be situated on a portion of the site that includes the existing surface paved parking lot and adjacent vacant grass tract. The number of vendors will be limited to no more than 10 and the hours of operation will be from 8:00 AM to 12:00 PM on Saturdays. As a co-located City facility, the City will enter into an agreement with the property owner to primarily use the existing surface parking lot and only use the grass area for overflow activity. According to the application, the vendors will sell produce, plants, local arts, and crafts, etc. It is not the intent that the vendors would sell second-hand goods such as tools, house wares, auto parts and other merchandise that would be commonly found at a flea market.

The City Zoning Code provides criteria for determining the appropriateness of a Conditional Use application under Section 110 -1102(g), as follows:

- 1. Is the proposed use consistent with the intent of this chapter? The proposed Conditional Use will be consistent and compatible to retail commercial uses to the north and west. It will be buffered and screened from residential uses to the east and south.*
- 2. Is the proposed use consistent with the Comprehensive Plan? As referred to in Item No. 1, the proposed use is consistent with the City Comprehensive Plan.*
- 3. Will the proposal adversely affect the public interest? To protect the public interest, the merchandise sold at the proposed market will be limited to fresh produce, arts/crafts, including handmade jewelry, small plants and flowers and other similar products.*
- 4. Can the applicant meet the expressed requirements of applicable City Conditional Use regulations? The farmer's market Conditional Use requirements can be met for the Code of Ordinances. Those requirements include that the farmer's market may be sited in various residential or commercial zonings subject to a Conditional Use application. In addition, goods sold at the farmer's market will be limited to crafts, produce, and related merchandise.*
- 5. Will the applicant be able to meet all requirements imposed by Federal, State or local governments? State or Federal entities will have no regulatory involvement regarding the decision to approve the farmer's market at the subject property.*
- 6. Will the proposed use generate undue traffic congestion? The segments of Providence Blvd. associated with the Conditional Use site, according to 2008 City traffic counts, are operating at acceptable levels of service. The*

Providence Blvd. segment, Ft. Smith Blvd. to Tivoli Drive, is operating at approximately 78% of capacity and the Providence Blvd. segment, Tivoli Drive to Page Drive, is operating at approximately 82% of capacity. In addition, the proposed use will only operate from 8:00 AM to 12:00 PM on Saturdays (not at peak traffic time). Therefore, approving the Conditional Use, with limited hours of operation, ensures that traffic capacity associated with the affected Providence Blvd. segments will be preserved for other uses.

- 7. Will the proposed use create a hazard, public nuisance, or be dangerous? The farmer's market will be limited in scope and size. The type of product and number of vendors will be managed and limited. Thus, the farmer's market will not constitute a public nuisance or be hazardous/dangerous.*
- 8. Will the proposed use materially alter the character of surrounding neighborhoods or adversely affect the value of surrounding land, structures, or buildings? The market is proposed for a site that is used as an institutional type activity (i.e. a Church). In addition, the site is located along Providence Blvd., a City thoroughfare, and is associated within an existing commercial node. The land where the farmer's market is proposed is well buffered from residential areas by existing vegetation, buildings, and road rights-of-way.*
- 9. Will the proposed use adversely affect the natural environment, natural resources, scenic beauty, or cause excessive pollution? The proposed farmer's market will be located on a tract already developed as a parking lot and an improved (impacted natural environment) grass area. Therefore, there will be no ecological impacts associated with the use.*

After discussion, the Commission voted 2 to 5 (Commissioner Carmolingo, Commissioner Deyette, Commissioner Treusch, Vice Mayor McFall-Conte and Mayor Mulder voted against the motion) to stop the project until a more suitable place can be found for the farmer's market.

After discussion, the Commission voted 5 to 2 (Commissioner Denizac and Commissioner Zischkau voted against the motion) to recommend that the Conditional Use Permit for the Deltona Farmer's Market be approved, subject to the following Conditions of Approval:

1. The farmer's market and parking area will be confined to the existing parking lot and grassed area located along Providence Blvd. In addition, all vendor areas and related pedestrian access to vendor areas will be separated with appropriate barriers from parking areas and traffic circulation.
2. The farmer's market will be limited to only one (1) day a week on Saturday. Hours of operation will be restricted to 8:00 AM to 12:00 PM. However, vendors may be allowed to set up one (1) hour early

and be given one (1) hour to disassemble, if needed. Merchandise sold will be limited to fresh garden crops, horticultural products, art and crafted items, which goods are subject to approval by the City.

3. A minimum of 30 parking places will be provided and a minimum of three (3) extra spaces will be paved for handicap accessibility.
4. The subject farmer's market Conditional Use Permit will be reevaluated by the City Commission six (6) months after approval.

9. OLD BUSINESS:

A. Request approval of the agreement between Deltona United Church of Christ and the City of Deltona.

Per the Commission's direction earlier this year, the City established a Public Market in May 2009 which was scheduled for each Saturday from 8:00 a.m. to Noon in the City Hall parking lot.

The City has tried various methods of advertising the event, i.e. City's webpage, D-TV, calendars, signage, flyers, display ads, etc. Since we opened our Public Market, the City of DeBary has opened a Farmers Market on Saturday mornings at Gateway Park (intersection of Saxon Blvd. & 17/92); and the City of Lake Helen also has since started back up with their Farmers Market in November.

Staff previously discussed in a City Commission workshop on November 9, 2009 several options from the Commission to consider allowing vendors, at least on a trial basis, who sell handmade arts and crafts, baked goods, coffee/soft drinks, spices/seasonings, etc. Furthermore, staff discussed a change of venue and changing the day of the market; but with the other markets in the area and the majority of our population commuting outside the City, staff felt that it would be in the best interest to leave the location here at City Hall for the time being. Since the workshop, weather conditions have hampered the vendor turnout and the market participation has been minimal at best.

As you are aware, Charity Farms has notified the City that it can no longer be a partner with the City for the Victory Garden project. Despite staff's best efforts to secure other sponsors for the Victory Garden at the Providence Blvd. site, we have been unsuccessful in this current economic environment in finding the necessary sponsors to make this program work. On March 26th, the City approached and met with a representative from the Deltona Church of Christ, located on Providence Blvd., to discuss the possibility of utilizing the present Charity Farms Victory Garden site to allow the relocation of the City's Public Market. The Deltona Church of Christ Board of Directors conducted a meeting and approval was granted allowing use of the property for the Public Market. This would require the Church to complete a conditional use permit for the market and completion of a new written agreement between the City and the Church for this use.

On April 13, 2010 at a workshop, the Commission supported to change the name from "Public" to "Farmers" Market and directed staff to proceed with the steps necessary to re-locate the Farmers Market to the church site. Staff was asked to develop a plan addressing several issues, personnel costs, accessibility of the site for the handicap or disabled people and meet with the Church to determine specifics outlined in the agreement. Staff met with the owners of Appleby's Produce Market and discussed the proposed location with them and they are not opposed to the site and have opted not to participate. Additionally, several members of the community and potential vendors have expressed an interest in wanting to participate in the Farmers Market and are excited about the new proposed location.

After Discussion, the Commission voted 5 to 2 (Commissioner Denizac and Commissioner Zischkau voted against the motion) to approve the Farmers Market Agreement as presented.

B. Discussion & direction re: Team Volusia Economic Development Corporation Final Business Plan.

The August 10th Commission workshop included a presentation by County Council Member Pat Northey and Larry McKinney, Daytona Regional Chamber of Commerce President, regarding the Team Volusia Economic Development Corporation partnership. At the workshop, the Commission discussed whether or not to become a member of Team Volusia. Some members of the Commission expressed that they would support the concept if the City was granted two (2) seats on the Board of Directors rather than one (1) seat if the City paid a total of \$50,000 for the year. Staff is seeking direction from the City Commission as to how to proceed in this matter, and whether or not the Commission desires to be a member of Team Volusia at an annual cost of \$42,132.

Mr. McKinney and Council Member Northey will be present at tonight's meeting to answer any further questions as needed.

After Discussion, the Commission voted 5 to 2 (Commissioner Denizac and Commissioner Zischkau voted against the motion) for the City of Deltona to join Team Volusia Economic Development Corporation beginning October 1, 2010, to offer space in City Hall as office space, to re-evaluate the City's membership after one (1) year and for the City Manager to bring the contract back to City Commission for approval.

10. NEW BUSINESS:

A. Request for approval to grant a Construction and Maintenance Easement located on Howland Blvd. at the Public Works Complex to Volusia County for the Howland Blvd. Phase 3 road improvement project.

Volusia County intends to proceed with the expansion of Howland Blvd., also known as the Howland Blvd. Phase 3 project, in the upcoming fiscal year. This easement provides them the area necessary for the construction and provides adequate side slopes for the elevated roadway associated with this project. Pursuant to the easement document, the County will maintain these side slopes and in perpetuity.

After Discussion, the Commission voted unanimously to approve the granting of said Construction and Maintenance Easement to Volusia County for the Howland Blvd. Phase 3 road improvement project.

B. Resolution No. 2010-26, Expressing support of the City of Daytona Beach in their request for a Certificate of Public Conveyance and Necessity (COPCN) for Advanced Life Support Transport.

At the Commission's August 9th workshop, the Commission discussed and agreed to support the City of Daytona Beach's request for a Certificate of Public Conveyance and Necessity (COPCN) for Advanced Life Support (ALS) transport. Please be advised that the City Attorney has not had the opportunity to review this Resolution prior to completing the agenda packet preparation, therefore he may have additional changes to this Resolution which will be provided to the Commission in a revised form prior to Monday's Commission meeting.

After Discussion, the Commission voted unanimously to adopt Resolution No. 2010-26, expressing support for the City of Daytona Beach's request for a COPCN for ALS transport services.

C. Resolution No. 2010-27, Requesting that the Volusia County Council modify the City of Deltona's Certificate of Public Conveyance and Necessity (COPCN) to allow the City to provide contingency EMS transportation in certain circumstances.

At the Commission's August 9th workshop, the Commission discussed and agreed to support the Fire Chief's and City Manager's request to submit a request to the Volusia County Council for a Certificate of Public Conveyance and Necessity (COPCN) to allow the City to provide contingency EMS transportation in certain circumstances. Please be advised that the City Attorney has not had the opportunity to review this Resolution prior to completing the agenda packet preparation, therefore, he may have additional changes to this Resolution which will be provided to the Commission in a revised form prior to Monday's Commission meeting.

The Commission on August 9th briefly discussed the possibility of the City of Deltona requesting a COPCN for full transport capability. Chief Staples has prepared a draft of another Resolution for full transport which has been submitted to the City Attorney for review. That Resolution has not been included on this agenda as staff would like to have time to prepare the COPCN application

for the Commission's consideration and to provide more details on start-up costs and proposed levels of service if the City were granted the ability to provide full emergency transport. Staff is tentatively planning to have this information and proposed Resolution ready for the September 7th Commission meeting.

After Discussion, the Commission voted unanimously to adopt Resolution No. 2010-27 requesting that Volusia County modify Deltona's Certificate of Convenience and Necessity (COPCN) to allow the City of Deltona to provide contingency EMS transport.

11. CITY COMMISSION COMMENTS:

12. CITY ATTORNEY COMMENTS:

13. CITY MANAGER COMMENTS:

After Discussion, the Commission concurred to add Discussion re: how to spend the funds in the Tree Replacement Fund to the next workshop.

14. ADJOURNMENT:

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at least three (3) working days in advance of the meeting date and time at (386) 878-8100.